

REGULAR MEETING - CITY COUNCIL - CITY OF NEWTON**JANUARY 21, 2004**

The City Council of the City of Newton held a regular meeting at 7:30 PM on Wednesday, January 21, 2004 at City Hall with the following present: Mayor Robert Mullinax, Council Members Wayne Dellinger, Al Gaither, Tom Dixon, Tom Rowe, Anne Stedman, City Manager Edward Burchins, City Attorney Larry Pitts, Assistant City Manager Glenn Pattishall and City Clerk Rita Williams. Council Member Roy Johnson was absent.

ITEM 1 - CALL TO ORDER.

Mayor Mullinax called the meeting to order and welcomed citizens in the audience.

ITEM 2 - OPENING.

Council Member Gaither gave the invocation and led the Pledge of Allegiance.

ITEM 3 - APPROVAL OF MINUTES OF JANUARY 6, 2004 REGULAR MEETING AND JANUARY 6, 2004 CLOSED SESSION.

A motion was made by Council Member Rowe, seconded by Council Member Dellinger, and unanimously adopted that the minutes of the January 6, 2004 regular meeting and January 6, 2004 closed session be approved as submitted.

ITEM 4 - CONSIDERATION OF APPROVAL OF CONSENT AGENDA ITEMS.

A motion was made by Council Member Gaither, seconded by Council Member Dixon, and unanimously adopted that the following items on the Consent Agenda be approved:

A. Tax release. (approved)

<u>Year</u>	<u>Rel. #</u>	<u>Name</u>	<u>Reason</u>	<u>Amount</u>
2003	40	Jeffrey & Joyce Steelman	Value Change	\$5.28

B. Consideration of approval of annual Fire Department membership roster and department certification. (approved)**C. Consideration of budget amendment for purchase of camera and recorder for the Police Narcotics Division and for undercover expenses. (approved)****ORDINANCE #2004.1 ATTACHED****D. Consideration of approval of revised WPCOG Charter and By-laws to amend the Policy Board membership to enable them to pursue designation as an Economic Development District. (approved)****ITEM 5 - PUBLIC HEARINGS:****A. Consideration of amendment to 1996 NC Hwy. #10 West Land Development Plan.**

Mayor Mullinax recessed the Council meeting and called to order a public hearing, as previously scheduled and advertised, to consider an amendment to the 1996 NC Highway #10 West Land Development Plan.

Assistant City Manager Pattishall reported that at the November Planning Commission meeting, the Planning Commission voted three for and two against a proposed amendment to the 1996 NC Highway #10 Land Development Plan to remove from Subarea #5 a parcel owned by Dale and Rebekah Lafone and placement of their property into Subarea #4 of the Plan. The basis of the Planning Commission's recommendation was that Subarea #4 already contained three parcels

out of four that are zoned B-2 and that it appeared that the B-2 zone had been designated versus planned development in Subarea #4 and that with the amendment, they would have a basis for recommending the rezoning to B-2 of the Lafone property.

Mr. Pattishall stated that the Plan indicated that the subareas could be combined or could be developed separately, but that the primary purpose of designating subareas in the plan was to delineate tracts for development purposes with an emphasis on parcel assemblage for a single development site such as a neighborhood shopping center or some type of mixed use development. Also, it was recommended by the Plan that driveway access to the sites be located to the extreme limits of the properties away from the intersection of NC 10 and Startown Road and limited to only one on Highway #10 and one on Startown Road. The buildings would be set back from the intersection to provide for an uncluttered corner.

Mr. Pattishall stated that if the Lafone property were to be rezoned to B-2, the intent, purpose and integrity of the Land Development Plan recommendations would be comprised because in essence, strip commercial development will be acknowledged as appropriate which is in contrast to the intent of the Plan. He said the vision for Subarea 5 was for Mixed Use Development possibly of a commercial and/or residential nature. Mr. Pattishall advised the Council that amendment of the plan would set a precedent for future Plan amendment requests and rezonings contrary to the original Plan recommendations.

After further review of the request, Mr. Pattishall stated that the staff did not recommend that the NC Highway 10 West Land Development Plan be amended because the subject property in Subarea 4 in no way confers a justification for rezoning to B-2 even though it adjoins B-2 property owned by J. C. Faw.

Mayor Mullinax asked if there was anyone in the audience who wanted to speak for or against the proposed amendment.

Attorney Martin Pannell, who represented Mr. and Mrs. Lafone, spoke in favor of the proposed amendment and stated the property would be hard to develop in assemblage with properties of Subarea 5 due to the terrain elevation changes from Highway #10 to the creek. He also said the adjacent property owner, Ms. Bumgarner, had no objection to the rezoning. He said the Lafone property being moved to Subarea 4 would better suit their intended use for an automobile sales lot. Mr. Pannell requested the amendment be approved and stated the majority of the Planning Commission members recommended it be approved.

Mayor Mullinax closed the public hearing and called the Council meeting back into session.

After Council discussion, a motion was made by Council Member Rowe, seconded by Council Member Dellinger, and unanimously adopted that the Highway #10 West Land Development Plan be amended to move the Lafone property from Subarea 5 to Subarea 4.

B. Rezoning Application #2003-04 - Dale and Rebeka Lafone.

Mayor Mullinax recessed the Council meeting and called to order a public hearing, as previously scheduled and advertised, to consider rezoning application #2003-04 filed by Dale and Rebeka Lafone.

Assistant City Manager Pattishall reported that Dale and Rebekah Lafone submitted an application to rezone a 2.85 acre parcel located in the southeast quadrant of the NC Highway 10 West and Startown Road intersection from an existing R-20, Single-Family Residential, to a B-2, Highway Business classification.

He gave a detailed review of the application including the zoning history of the property, the surrounding land use and zoning, transportation issues including traffic counts and land use requirements relative to the case.

He stated the Planning Commission voted 4-1 to recommend that the subject property be rezoned to B-2 Highway Business as a part of Subarea 4. He said the Planning Staff recommended that the City Council deny the application as requested because the application is not in compliance with the intent or policies of NC Highway 10 West Land Development Plan which was recommended by the Planning Commission in 1995 and approved by the Board of Aldermen in 1996 regardless of which subarea it was placed in.

Mayor Mullinax asked if there was anyone in the audience who wanted to speak for or against the proposed rezoning.

Attorney Martin Pannell, who represented Dale and Rebekah Lafone, requested the rezoning application be approved and gave a lengthy presentation on the drainage of the area, the intended driveway access to Highway #10, current zoning and uses of adjacent properties, proposed traffic counts, the criteria for PUD's, the Lafone's intended use of the property and the Planning Commission's majority vote that the property be rezoned. He further stated no property owners objected to the proposed rezoning.

Mr. and Mrs. Lafone both requested the Council give favorable consideration to their rezoning request and stated they planned to use their property for a family operated automobile sales lot and felt the property was suitable for that use.

Mr. Barry Bush, Director of Real Estate for J. C. Faw Food Stores, said he was speaking for J. C. Faw and Venture Properties. Mr. Bush asked several questions of Mr. Pattishall for clarification purposes and then stated they were not opposed to the rezoning but preferred to see the property developed with paving.

Mayor Mullinax closed the public hearing and called the Council meeting back into session.

A motion was made by Council Member Rowe, seconded by Council Member Gaither, and unanimously adopted to rezone the Lafone property to B-2 as requested.

ORDINANCE #2004.2 ATTACHED

ITEM 6 - OLD BUSINESS:

- A. Consideration of appointing Jeff Barbour to fill vacancy on the Board of Adjustment instead of serving as an alternate member.**

Mayor Mullinax reported that there was a vacancy on the Board of Adjustment due to the appointment of Ken Simmons to the Planning Commission. He recommended Jeff Barbour, who is presently serving as an alternate member, be appointed to fill the vacancy and the Council concurred.

ITEM 7 - NEW BUSINESS:

- A. Consideration of approval of municipal agreement with NCDOT - Project U-2404 (eastern Loop).**

Assistant City Manager Pattishall reviewed a utility agreement between the City and NCDOT concerning water and sewer utility adjustments that will be necessary for construction of the Newton portion of the Newton-Conover Loop project known as U2404-A. The agreement states that NCDOT will make the necessary adjustments and construct the necessary portions of the utility systems that will be affected by the road project and then bill the City for the total costs which are estimated in the agreement to be \$385,066. However, according to a letter received from Ed Reams of NCDOT, the actual cost will be \$315,270. He stated the staff recommended the agreement be approved.

A motion was made by Council Member Dellinger, seconded by Council Member Stedman, and unanimously adopted that the following Resolution be approved to authorize the execution of the utility agreement with NCDOT:

RESOLUTION # 1-2004

WHEREAS, the North Carolina Department of Transportation has prepared and adopted plans for the improvement of the Newton-Conover Loop from NC 16 south of Newton to SR 1739 (Emanuel Church Road); and

WHEREAS, said Department of Transportation and the City of Newton propose to enter into an agreement whereby said Department will include in its construction contract provisions for the relocation and adjustment of municipally-owned water and sewer lines; and

WHEREAS, the Municipality agrees to reimburse the Department of Transportation for the entire cost (estimated cost is \$385,066.00) of said utility work with reimbursement to be made in one final payment upon completion of the work;

NOW, THEREFORE, BE IT RESOLVED that Project U-2404A, Catawba County, is hereby formally approved by the City Council of the City of Newton, and that the Mayor and Clerk of this Municipality are hereby empowered to sign and execute the Agreement with the Department of Transportation.

Witness my hand and the official seal of said Municipality on this the 21st day of January, 2004.

Rita K. Williams, City Clerk

B. Discussion regarding Eastern Loop water/sewer/electric relocation project.

City Manager Burchins reported that NCDOT has given the notice to proceed for the construction of the Eastern Loop of Highway #16. The City will be responsible for relocating the City owned electric infrastructure from the existing right-of-way. The cost to remove and relocate the existing overhead utilities in conflict with the project is estimated to be approximately \$97,000. Of this amount, the City expects that NCDOT will reimburse the City approximately \$60,800. In addition to the relocation of the existing electric lines, the City Council has previously indicated a desire to extend electric service to serve the area adjacent to the new highway. The estimated cost to extend the Electric Lines from East P Street to Keisler Road is \$478,000. Funding for this extension will be proceeds from borrowing. No specific time has been set for the borrowing.

Mr. Burchins said in addition to the electric infrastructure work, the Eastern Loop construction project will also require moving water and sewer infrastructure. The approximate cost of relocating the water and sewer infrastructure is \$525,000. He said the staff recommends the two projects be funded with borrowed funds. The total amount of debt to be incurred would be \$575,000 from the Electric Fund and \$525,000 from the Water and Sewer Fund.

Mr. Burchins stated that the Council will have discussion about the funding at the retreat. He said the staff will then bring funding alternatives before the Council for consideration at a later meeting. He recommended two Capital Project Ordinances be adopted for the electric and water and sewer projects.

A motion was made by Council Member Gaither, seconded by Council Member Rowe, and unanimously adopted to approve Statements of Intent to reimburse expenditures and the following two Capital Project Ordinances:

ORDINANCE #2004.3 ATTACHED

ORDINANCE #2004.4 ATTACHED

- C. Consideration of budget amendment to convert 4kV to 24 kV at Abernethy Methodist Church.**
- D. Discussion regarding NCDOT signalization - relocation of power poles.**

Director of Public Works and Utilities Marty Wilson reported that the City of Newton Electric Operations division will be providing a new transformer and service connection to the new addition to the Abernethy Methodist Church on 13th Street. The electric infrastructure is presently a 4 kV delivery. The City Electric master plan recommends converting all existing 4kV to 24 kV service. As the City installs the new service to the addition for the church, it is recommended that the delivery lines be upgraded to 24 kV service. The cost to do this will be approximately \$24,000.

Mr. Wilson said in addition. the City will need to relocate electric infrastructure to accommodate the DOT Signalization Project which includes relocating electric poles city wide due to the State's installing fiber optic connections to all the traffic signals. The approximate cost to do this is \$20,000. He said the staff recommended that funds be appropriated from electric fund balance in order to complete both of these projects.

A motion was made by Council Member Dellinger, seconded by Council Member Dixon, and unanimously adopted to approve the budget amendment as requested.

ORDINANCE #2004.5 ATTACHED

- E. Consideration of bids on Conover sewer line project.**

Public Works and Utilities Director Marty Wilson reported that the City opened bids for the Conover Sewer Line construction project on January 13, 2004. The apparent low bid was submitted by Ronnie Turner Construction Company. The bid included the construction of gravity and force main sewer lines and additional work requested by Conover as part of the tie in to the City of Newton sewer system. The low bid for this part of the project bid was \$295,940 (\$240,720 from Schedule 2 plus Alternate bid item number 2 for an additional \$55,220) which will be totally reimbursed by the City of Conover to Newton after completion of the project per the agreement with Conover. He said the staff recommended that fund balance be used in addition to the funds previously designated for this project in order to complete the project in a timely manner.

Mr. Wilson stated the pump station improvements and the mechanical bar screen were items that were requested to be added by our staff as part of the Wastewater Plant Upgrade project. The low bid for these two items was \$212,260. The staff recommended that this project be funded out of borrowed funds to be obtained in conjunction with the wastewater treatment plant upgrade project. In addition, the sewer line relocation related to the Eastern Loop project that is required to be designed and constructed in the area of the Conover tie-in project was included in Schedule 3 of the bid. The low bid was \$36,240 and staff recommended that it be funded as part of the Eastern Loop utility relocation project borrowed funds.

A motion was made by Council Member Dixon, seconded by Council Member Stedman, and unanimously adopted to award the bids to Ronnie Turner Construction Company and adopt the budget amendment to complete the necessary construction costs for the Conover Sewer line.

ORDINANCE #2004.6 ATTACHED

- F. Appointment of Council members to WPCOG Policy Board.**

Mayor Mullinax appointed Council Member Johnson as the City's delegate and Council Member Dixon as the alternate delegate to the Western Piedmont Council of Governments Policy Board and the Council concurred.

ITEM 8 - CITY MANAGER'S REPORT.

A. Update on cemetery project.

Assistant City Manager gave a status update on the new cemetery project. He said the logging has been complete on the site and the debris will be removed as part of the construction contract. Bids will be let and hopefully brought before the Council at the March 2nd meeting. The staff's goal is to have the cemetery dedicated in June, weather permitting. He said there was a lot to be done before that time such as moving existing structures on the property, landscaping, gates, walls, lighting, evaluating markers, rates, looking at the size of the graves, computerized software for cemetery management and establishing rules for its operation, etc. He said there was a long list of things which must be done in anticipation of the cemetery opening.

Mr. Burchins reviewed the agenda for the Council Work Session to be held January 29, 30 and stated three staff members from ElectriCities will be the facilitators.

ITEM 9 - QUESTIONS FROM MAYOR AND COUNCIL.

Mayor Mullinax stated that the City has been asked by the Newton-Conover Rotary Club to honor one of its charter members, Charles R. Corriher, for his many years of community service and for being an active Rotarian since 1949. He said at next week's Rotary meeting, he planned to present Mr. Corriher a proclamation designating January 27, 2004 as Charles Corriher Day in the City of Newton.

ITEM 10 - CLOSED SESSION TO DISCUSS LOCATION/EXPANSION OF BUSINESS OR INDUSTRY (G.S. 143-318.119(a)).

Mayor Mullinax stated the Council needed to have a Closed Session to discuss location/expansion of business or industry.

A motion was made by Council Member Gaither, seconded by Council Member Rowe, and unanimously adopted that the Council go into Closed Session for the reason stated.

After the Closed Session, Mayor Mullinax called the meeting back into session and stated no action was to be taken on the matters discussed.

ITEM 11 - ADJOURN MEETING UNTIL 8:30 AM ON THURSDAY, JANUARY 29, 2004 AT THE OFFICE OF MULLINAX AND WILLIAMS LOCATED AT 22 S. MAIN AVENUE, 3RD FLOOR, IN NEWTON.

There being no further business, Mayor Mullinax recessed the meeting until 8:30 AM on Thursday, January 29, 2004 at the office of Mullinax and Williams located at 22 S. Main Avenue, 3rd floor, in Newton.

Respectfully submitted,

Robert A. Mullinax, Mayor

Rita K. Williams, City Clerk